



ISWA
International Solid Waste Association



**ISWA EU
NEWSLETTER**

ECJ on Service Concessions and In-house Control

European Court of Justice (ECJ) passed two rulings in September on the administration of public services, especially service concessions on water and the in-house definition for waste.

Case **C-206/08** concerns service concessions in the water sector and the transfer of risks to the concessionaire. The court found that in relation to a contract for the supply of services, the fact that the supplier does not receive consideration directly from the contracting authority, but is entitled to collect payment under private law from third parties, is sufficient for the contract in question to be categorised as a “service concession” where the supplier assumes all, or at least a significant share, of the operating risk faced by the contracting authority, even if that risk is, from the outset, very limited on account of the detailed rules of public law governing that service.

Case **C-573/07** concerns the in-house relationships between a number of municipalities through a share company and its latest shareholder and awardee of services.

The Court stated:

With regard to share companies:

It is not contrary to the conditions of procurement, for a public service contract to be awarded directly to a company limited by shares with wholly public capital so long as the public authority which is the contracting authority, exercised over that company, control similar to that which it exercises over its own departments and so long as the company carries out the essential part of its activities with the authority or authorities controlling it.

With regard to authority over share companies:

The control exercised over the company by the shareholder authorities may be regarded as similar to that which they may exercise over their own departments in circumstances such as those of the case in the main proceedings, when 1) that company’s activity is limited to the territory of those authorities and is carried on essentially for their benefit 2) through the bodies established under the company’s statutes made up of representatives of those authorities, the latter exercise conclusive influence on both the strategic objectives of the company and on its significant decisions.

The full cases can be searched through the courts search form:

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=en>

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Metal Recycling on the Rise

Over a third of global steel production now comes from recycled scrap material, reports a study from the World Watch Institute. This reports to be a result of changing economics and environmental considerations. In some countries, also in Europe, secondary steel production account for a majority of their total output. Recycling steel saves 40-75 % of energy needed to produce virgin steel and producing aluminium from recycled scrap uses only 5-10 % as much energy compared to a natural source.

Read the analysis here:

<http://www.worldwatch.org/node/6246?emc=el&m=291809&l=4&v=dc926aafb1>

Find the Communication from the Commission in 2008 on the raw materials initiative, here:

<http://eur->

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0699:FIN:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0699:FIN:EN:PDF)

Britain Clarify Landfill Tax

The legislation on landfill tax in Britain was clarified in the beginning of September through a change, making “prescribed landfill site activities” included in the tax.

The following prescribed landfill site activities are taxable:

- * The use of material to create or maintain a temporary haul road. This can include use of material for the construction or maintenance of roads;
- * The use of material to cover the disposal area during a short-term cessation in landfill disposal activity;
- * The use of material to create or maintain temporary hard standing (means a base within a landfill site on which any landfill site activity such as sorting, treatment, processing, storage or recycling is carried out);
- * The use of material to create or maintain a cell bund (means a structure within a disposal area which separates units of waste);
- * And the use of material to create or maintain a temporary screening bund (means any structure on a landfill site put in place to protect or conceal any landfill site activity to reduce nuisance from noise) except where the material so used is naturally occurring material extracted from the landfill site in which the temporary screening bund is located.

No tax is due on waste which is subject to processing or sorting in the area of a landfill site prior to the waste being subject to recovery. However, information regarding which activities are taxable and non-taxable must be provided to the authorities or all will be taxed. Read the background consultation on modernising landfill tax legislation here:

http://www.hm-treasury.gov.uk/d/Budget2009/bud09_landfill_tax_964.pdf

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Barroso Re-elected and Pursues Services on General Interest

Portuguese Jose Manuel Barroso has been re-elected as the President of the European Commission. His first speech included his support to regulate services of general interest: "In the guidelines, I emphasised the importance of Services of General Interest for our European model of society. The Lisbon Treaty makes this point very clear. And yes, I am ready to work with you to develop a quality framework for Services of General Interest."

The complete speech can be read here (English as pdf-file):

<http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/09/391&format=HTML&aged=0&language=EN&guiLanguage=en>

Swedish Presidency Pursues Private Cooperation in Public Services

The Swedish presidency of the Council arranged a meeting in Stockholm for European Cities and Global Climate Change in September. The Swedish environmental minister Andreas Carlgren stated in a speech:

"Going beyond Europe, the potential for cooperation, partnerships and trade in green technology and urban sustainable solutions is enormous. In fact, the transfer of knowledge and technical solutions for sustainable urban development can be an important part of a global climate agreement.

To stimulate this development, many different sectors of society must be engaged. Industry must be participating in the change in our ways of building and living. A large share of the capital that is to be invested must come from the private sector, state budgets alone are far from sufficient."

The complete speech can be found here:

<http://www.regeringen.se/sb/d/11621/a/131546>

President of Parliament Predicts Future

The newly elected President of the European Parliament Jerzy Buzek (European Peoples Party, EPP) gave an interview before his inauguration "I am sure that improving Europe's energy security, interconnections and diversifying supply will become an even greater priority. On climate change, the change to a low carbon-economy must be regarded as an opportunity for investment in new renewable industries and not as a threat to economic growth."

Read the full interview here:

<http://www.euractiv.com/en/opinion/buzek-determined-shape-eu-agenda-ready-unexpected/article-185432>

WEEE and ROHS

Council Working Parties on Environment will meet by the end of September to discuss the recasts of the WEEE and ROHS directives with the assistance of REACH experts. The time-plan for the recast of the WEEE directive in Parliament is the following:

23 October First Council examination expected

22 December First Council debate expected

6 April 2010 Parliament environmental committee report expected

18 May 2010 (possible date) Parliament plenary sitting, possible decision.

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Eurostat Yearbook 2009 on Environment

Tables and charts have been published by Eurostat covering Environment, with items such as greenhouse gases, biodiversity as well as environment and economy

Open or send for the statistics here:

http://epp.eurostat.ec.europa.eu/portal/page/portal/product_details/publication?p_product_code=CH12_2009

Barroso II Taking Form

The second Commission under Barroso (Barroso II) has announced its intention to concentrate its work on green jobs and competitiveness. The political intentions presented earlier in September, was reaffirmed in an interview with Mr Barroso. Read the Political intentions here:

http://ec.europa.eu/commission_barroso/president/pdf/press_20090903_EN.pdf

IPPC in Second Reading – Different Agendas

The second reading of the new Industrial Emissions Directive (previously know as IPPC- Integrated Production and Prevention Control) is slowly progressing.

The Swedish Presidency wants to finish it during its presidency, before the end of 2009. The Councils position is however not yet finalised. The rapporteur in the European Parliament Holger Kraemer (ALDE, Germany) wants a traditional discussion in Committee and with a Plenary vote, which will mean the second reading may not be finalised during 2009. The European Parliament has tentatively planned Committee adoption for 23 February 2010.

EU Taxation of Energy Products and Electricity??

The Commission has presented a draft proposal with the intention introduce a minimum tax on carbon. The proposal includes the suggestion to provide an adapted framework for the taxation of renewable energies. The Commission taxation and customs department are known to wish for environmental taxation on the grounds of efficiency. The controversial proposal will need backing from Council. Several member states, especially the UK, are against European taxation on the grounds of the subsidiarity principle.

The draft proposal revising the 2003 energy taxation directive suggests a minimum tax on carbon of € 10 per tonne from 2013. Member States would be free to introduce higher taxes if wanted.

Read the 2003 legislation here:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:283:0051:0070:EN:PDF>

Find the draft proposal here:

<http://www.euractiv.com/pdf/Energy%20Taxation%20Interservice%20proposal.pdf>

Read more about the Community framework for the taxation of energy products and electricity here:

http://europa.eu/legislation_summaries/internal_market/single_market_for_goods/mot_or_vehicles/interactions_industry_policies/127019_en.htm

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Copenhagen Waste & Climate Conference 3-4 December 2009

The final programme for the ISWA and Dakofa Waste & Climate conference in Copenhagen 3-4 December 2009, is now available. The conference fees has been reduced and ISWA/Dakofa members can now enter for € 700 and non-mebers for € 780. The conference precedes the global Climate Conference 7-18 December in Copenhagen.

The final programme can be found here:

<http://www.dakofa.dk/downloads/091007,%20final%20programme%20waste%20and%20climate.pdf>

9th International Waste Conference, November, Vienna

The 9th international Waste Conference will take place in Vienna, Austria on 16-18 November. The theme is Wert and Verwertung – vom Abfall zum Rohstoff (Value and Recovey – from waste to resource). The conference is expected to gather 4-500 international participants, including the eastern European countries. Translation to and from several European languages will be provided.

More information about the conference here:

www.abfallwirtschaftskongress.at

Locations Selected for Future ISWA Congresses

The General Assembly of ISWA has confirmed it's planned next General Assembly for Nov 14, 2010 in Hamburg, Germany. The Annual Congress will take place on Nov 15-18. In addition, future years decided include:

2011	Daegu City, Korea
2012	Florence, Italy
2013	not yet determined
2014	Sao Paulo, Brazil

ISWA Headquarters Address to Change 1st January 2010

ISWA offices will move about one kilometer closer to central Vienna in the coming months. Be looking for new coordinants!

ISWA thanks Municipal Waste Europe (Brussels, Belgium) for providing information and content contained in this newsletter.

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